



## **Training on the Revised 2012 Partnership Agreements**

Delegation of SBA's Contract  
Execution Authority to other Federal  
Government Agencies

Conducted by:  
The Office of Business Development  
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### **8(a) BD Program Objective**

- The 8(a) BD program promotes the development of small business concerns owned and controlled by socially and economically disadvantaged individuals so that such concerns can compete in the mainstream of the American economy.



## Overview

- The Small Business Act (the Act) (15 U.S.C. §§ 636 (j) and 637(a)) authorize the SBA to establish a business development program, known as the 8(a) Business Development Program. The specific sections of the Act are 7(j) and 8(a), hence the 8(a) Business Development Program (8(a) BD program).



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## Overview

- SBA is authorized to enter into a variety of types of contracts with other Federal agencies and to subcontract the performance of these contracts to 8(a) Program participants.



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## Overview

- The Partnership Agreement is the delegation of SBA's contract execution authority to other federal agencies.
- The current Partnership Agreements are in effect until September 30, 2012.



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## History

- Without the Partnership Agreement, Federal agencies were required to involve SBA from start to finish in the 8(a) procurement process.
- The procuring activity would enter into a contract with SBA and SBA would then subcontract the performance to qualified 8(a) firms, using a Tripartite Agreement.
- This was time consuming and, at times, a burdensome process for both SBA and the procuring activity.
- Although the tripartite relationship continues to exist, SBA's contract execution authority is delegated to Federal agencies through the Partnership Agreement.



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## Purpose

- The purpose of the Partnership Agreement is to streamline the contract execution process between SBA and the participating Agencies so that 8(a) firms are afforded every possible opportunity to participate in government contracting.



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## The Process-How it works

- The SBA and the partnering Federal agency share the responsibility of ensuring compliance with contracting functions as outlined in the Federal Acquisition Regulation (FAR), the agencies' internal regulations and Standard Operating Procedures (SOPs).
- Although SBA is not signing the executed contract between the 8(a) firm and the procuring activity, SBA and the Federal agencies are the prime contractor. SBA maintains responsibility for ensuring the integrity of the 8(a) BD Program.



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## Objectives

- The objective of the Partnership Agreement is to ensure that both SBA and the partner agency share the responsibilities of contract execution, oversight, monitoring and compliance with procurement laws and regulations governing 8(a) set-aside contracts.



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## Objectives (cont.)

- The Partnership Agreement reduces the time in which an agency's contracting office sends an offering letter to SBA and the time that the agency receives SBA's decision regarding the acquisition, to a maximum of five working days;
- SBA also delegates the authority (to the procuring agency) to sign contracts on its behalf;



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## Objectives (cont.)

- The Partnership Agreement also establishes uniform policies and procedures regarding the application of purchase orders utilizing 8(a) contracting procedures.



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## Scope

- The Partnership Agreement provides for the award of both contracts and purchase orders under the provisions of Section 8(a) of the Act as implemented by the FAR Subpart 19.8 and SBA's 8(a) BD program regulations found at Title 13 of the Code of Federal Regulations (C.F.R.), Part 124.
- The Partnership Agreement encompasses all competitive and non-competitive acquisitions offered by a partner agency and accepted by SBA for the 8(a) BD program.



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## Scope (cont.)

- The delegation of authority to the partner agency permits re-delegation to all warranted contracting officers for that agency to enter into 8(a) prime contracts. (*See The Act, Section 8(a)(1)(A)*); and
- Permits the warranted contracting officers to arrange for the performance of those contracts by eligible 8(a) participants.



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## SBA's Responsibilities

- SBA remains the prime contractor on all 8(a) contracts and the 8(a) Participant is the subcontractor.
- SBA shall review the Agency offering letters, issue acceptance or rejection letters, and make 8(a) eligibility determinations for award.
- SBA shall review all proposed joint venture agreements involving 8(a) Participants before contract award.



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## SBA's Responsibilities (cont.)

### **Sole Source Procurements:**

- Within five working days of receipt of an offering letter, SBA will issue an acceptance letter or a rejection letter, unless the District Office requests and the procuring activity agrees to an extension of time.
- If SBA does not respond within those five working days, the Agency may assume the offer has been accepted on the sixth working day.

#### Example:

Your agency sends an offering letter on May 7, 2009 (a Monday) to SBA via facsimile. If SBA does not respond then acceptance of the offer may be assumed on May 13, 2009, the sixth working day after the offering letter was provided and received by SBA.



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## SBA's Responsibilities (cont.)

### **8(a) Sole Source Procurements (Cont.):**

- Acceptance shall include a size verification (if appropriate) and determinations with respect to all elements of eligibility (i.e., determinations of adverse impact, North American Industry Classification System (NAICS) code appropriateness and 8(a) program eligibility).



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## SBA's Responsibilities (cont.)

### **8(a) Competitive Acquisitions:**

- SBA will issue an acceptance letter or rejection letter within five working days of receipt of an offering letter, unless the District Office requests and the procuring activity agrees to an extension of time.
- Absent a notification of rejection, within five working days of receipt of the offer, acceptance may be assumed on the sixth working day. (See previous example)



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## SBA's Responsibilities (cont.)

### **8(a) Competitive Acquisitions (cont.)**

- Within five working days upon receipt of a request from the contracting officer, SBA will issue an 8(a) eligibility determination for the apparent successful offer, as prescribed by SBA's regulations at 13 C.F.R. § 124.507(b).



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## SBA's Responsibilities (cont.)

### **8(a) Competitive Acquisitions (cont.)**

- SBA will review and approve all proposed joint venture agreements involving 8(a) Participants before contract award.



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## SBA's Responsibilities (cont.)

### **Acquisitions Valued at or Below the Simplified Acquisition Threshold**

- No offering or acceptance letter is required for requirements processed under the threshold for simplified acquisitions.



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## SBA's Responsibilities (cont.)

### **Acquisitions Valued at or Below the Simplified Acquisition Threshold (cont.)**

- SBA will review the program eligibility of the 8(a) Participant within two working days after a request from the contracting officer.



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## SBA's Responsibilities (cont.)

### **Acquisitions Valued at or Below the Simplified Acquisition Threshold (cont.)**

- Absent a notification that the selected 8(a) Participant is ineligible for the award within two (2) working days, the procuring agency may assume the 8(a) Participant is eligible and proceed with award, as prescribed by SBA's regulations at 13 C.F.R. 124.503(a)(4)(i).
- The procuring agency must notify SBA (in writing) of these 8(a) awards under this authority. See 13 C.F.R. 124.503(a)(4)(ii).



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## SBA's Responsibilities (cont.)

- SBA will provide 8(a) Participants with contract negotiation assistance or direct them to appropriate resources (including SBA-sponsored training) where they can obtain technical assistance in contract negotiations when requested by either the 8(a) Participant or the agency's contracting officer.
- Shall retain its appeal authority in accordance with FAR § 19.810.



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## SBA's Responsibilities (cont.)

- SBA has the right to perform on-site contract agency reviews and audits to ensure compliance with contract requirements. Advanced notification will be provided.
- May identify a requirement for an 8(a) Participant for a possible award. SBA will submit capability statements to the appropriate procuring activities for the purpose of matching requirements consistent with the 8(a) Participant's capability.



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## SBA's Responsibilities (cont.)

- Shall retain the responsibility for ensuring that 8(a) Participants comply with all applicable provisions relating to continuing eligibility for 8(a) BD Program participation per 13 C.F.R. § 124.112.
- Shall select an appropriate 8(a) Participant when the agency submits an open offering letter for a sole source procurement.



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## Procuring Agency's Responsibilities

- The procuring agencies must inform all contracting officers and other warranted officials who award 8(a) contracts of the responsibilities concerning the Partnership Agreement.
- The partner agency is responsible for reporting all 8(a) contract awards, modifications, and options to SBA until such time as the Partnership Agreement expires or is terminated.
- The partner agency is required to adhere to all provisions of contractual assistance identified in 13 C.F.R. §§ 124.501 through 124.520; as well as the applicable provisions of the FAR Subpart 19.8.



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## Procuring Agency's Responsibilities (cont.)

- To determine which requirements are suitable for offering to the 8(a) BD program in accordance with FAR Part 19, Subpart 19.8, and, working with the appropriate SBA district office, to identify 8(a) Participants capable of performing these requirements.



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## Procuring Agency's Responsibilities (cont.)

- Shall retain responsibility for compliance with the Limitations on Subcontracting requirements and all applicable provisions of FAR § 52.219-14 and any agency regulations.
- Shall include provisions in all contract awards, modifications, options and purchase orders awarded or issued under the 8(a) BD Program that require Program Participants to comply with the Limitations on Subcontracting provisions.
- Shall provide a copy of any signed contract, as defined in FAR § 2.101, including modifications, options and purchase orders executed under this PA to the SBA servicing district office within 15 working days of the date of award.



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## Procuring Agency's Responsibilities (cont.)

- Shall include monitoring and oversight provisions for all contract awards, modifications, options and purchase orders to ensure that all contracts comply with the performance requirements (Limitations on Subcontracting) of FAR § 52.219-14 and 13 C.F.R. § 124.510 and § 125.6.
- Shall request an eligibility determination from SBA's district office responsible for servicing the selected 8(a) Participant when an 8(a) Participant has been identified on all acquisitions valued at or below the simplified acquisition threshold prior to issuance of the purchase order.



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## Procuring Agency's Responsibilities (cont.)

- For sole source requirements exceeding the simplified acquisition threshold of \$100K, the contracting officer or other warranted official shall submit the offering letter to SBA's district office responsible for servicing the selected 8(a) Participant, when an 8(a) Participant has been identified.
- For sole source requirements when the partner agency has not identified a specific 8(a) Participant for a requirement, the contracting officer or other warranted official shall submit an open offering letter to the SBA district office that services the geographical area where the partner agency's contracting activity is located.



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## Procuring Agency's Responsibilities (cont.)

- For competitive 8(a) requirements, the contracting officer or other warranted official shall submit the offering letter to the SBA district office that services the geographical area where the partner agency's contracting activity is located.
- Exceptions: the offering letters for construction work will be sent to the SBA district office located in the geographical area where the work will be performed, or, in the case of construction contracts to be performed overseas, the offering letter shall be submitted to SBA's Headquarters;



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## Procuring Agency's Responsibilities (cont.)

- The contracting officer or other warranted official shall request an eligibility determination from SBA's district office responsible for servicing the selected 8(a) Participant, when an 8(a) Participant has been identified on all acquisitions valued at or below the simplified acquisition threshold prior to issuance of the purchase order;



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## Procuring Agency's Responsibilities (cont.)

- Agencies shall request an eligibility determination from SBA's district office responsible for servicing the selected 8(a) Participant when an 8(a) Participant has been identified on all acquisitions valued at or below the simplified acquisition threshold prior to issuance of the purchase order.
- Shall submit the offering letter for sole source requirements exceeding the simplified acquisition threshold to SBA's district office responsible for servicing the selected 8(a) Participant, when an 8(a) Participant has been identified. See FAR 19.804-2;
- Agencies are responsible for compliance with all applicable provisions of the FAR and any of its own regulations, unless a deviation is obtained.



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## Procuring Agency's Responsibilities (cont.)

- Each agency shall ensure that all contracts awarded pursuant to the Partnership Agreement contain provisions that:
  1. require SBA's approval of novation agreements submitted by the 8(a) Participant; and
  2. require advance notice to SBA (as the prime contractor) prior to issuance of a final notice terminating the contract in whole or in part.



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## Procuring Agency's Responsibilities (cont.)

- Each agency shall ensure that all NAICS codes for all 8(a) contracts are consistent with the Statement of Work and are applied in accordance with FAR § 19.102.
- Each agency shall add language to every contract stating that SBA (as well as the cognizant Federal agency) is the prime contractor on the contract.



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## Procuring Agency's Responsibilities (cont.)

- Each agency shall provide all proposed joint ventures involving 8(a) Participants to SBA for approval before contract award.
- Each agency's contracting officer is responsible for monitoring the 8(a) firm's compliance in accordance with the Limitations on Subcontracting FAR clause at 52.219-14 and 13 C.F.R. §§ 124.510 and 125.6.



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## Contract Execution

The agency's contracting officer may make direct award of a contract to the 8(a) Participant, but only after the requirement has been offered to and accepted by SBA. Contract execution shall be on the appropriate form specified in the FAR Part 19, Subpart 19.8.



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## Conditions of the Partnership Agreement

- Contracts that have not been offered to and accepted by SBA into the 8(a) BD program cannot be used for an agency's negotiated goals.
- SBA reserves the option to suspend or rescind the authority of the Partnership Agreement with an agency for failure to submit copies of award and modification documents to SBA within 15 working days of award.



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## Conditions of the Partnership Agreement (cont.)

- SBA has the right to conduct periodic compliance audits of the files of all contracts awarded pursuant to Section 8(a) authority and this Agreement. The delegated authority may be rescinded when audit findings indicate a pattern of failure to comply with 8(a) program regulations that govern award and administration of such contracts.



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## 8(a) Joint Venture Entities

- The Dynamic Small Business Search (DSBS) System has been modified to identify 8(a) joint venture awards.
- This effort will allow procuring agencies to receive 8(a) credit for awards made to 8(a) joint venture entities.



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## SBA's Point of Contact

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